



2005 DRAFTING REQUEST

Bill

Received: **12/10/2004**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Jeff Stone (608) 266-8590**

By/Representing: **Marsha Dake (aide)**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - misc**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Rep.Stone@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Creating airport special purpose districts

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 01/21/2005			_____			S&L Tax
/P1	mshovers 10/11/2005	csicilia 10/12/2005	chaugen 10/14/2005	_____	lnorthro 10/14/2005		S&L Tax
/P2	mshovers 12/02/2005	csicilia 12/09/2005	rschluet 12/12/2005	_____	lemery 12/12/2005		S&L Tax
/1	mshovers	csicilia	chaugen	_____	mbarman	sbasford	

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	03/01/2006	03/02/2006	03/02/2006 _____		03/02/2006	03/03/2006	

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1P2 MES 11/30/05

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12/9/05

12/25/05

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May Contact:

Addl. Drafters: **RAC, JK, JTK**

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FE Sent For:

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Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 12/10/04

Legislator, agency, or other person requesting this draft Rep. Jeff Stone

Person submitting request (name and phone number) Marsha Dake 6-8590

Persons to contact for questions about this draft (names and phone numbers) Marsha

Describe the problem, including any helpful examples. How do you want to solve the problem?

Airport Authority

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES ☒ NO

If yes:

Anyone who asks? YES NO

Any legislator? YES NO

Only the following persons _____

Do you consider this request urgent? YES ☒ NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?

YES ☒ NO

CHAPTER XXX LOCAL AIRPORT DISTRICTS

The following paragraph is to be included in the noncodified portion of the legislation:

The legislature finds and determines that an airport described in XXX.04(2) facilitates travel for a large number of people and businesses in the region surrounding the airport and throughout the entire state and has a substantial statewide economic impact that calls for ownership, operation and governance under a structure that takes into account regional and statewide interests.

XXX.01 Short title. This chapter XXX is known as the local airport district act.

XXX.02 Definitions. In this chapter:

(1) “Airport” means any area of land or water which is used or intended to be used for the landing or take-off of aircraft and any appurtenant areas which are used or intended to be used for rights-of-way or facilities necessary or desirable in connection with customary airport operations, and all airport facilities located thereon.

(2) “Airport facilities” means all real and personal property related to facilities used, available for use, or designed for use for the navigation, landing or take-off of aircraft, for the safety, security, storage, maintenance, servicing and repair of aircraft, for the security, comfort and convenience of airport personnel and the users of air transportation including natural persons and businesses, for mail, military and national guard uses of an airport, and for the safe and efficient operation and maintenance of an airport.

(3) “Board of directors” means the board of directors of a district.

(4) “Bonds” means bond, notes or other obligations issued pursuant to s. XXX.10.

(5) “Chief municipal official” means the county executive of a county or, if there be none, the chairman of the county board of supervisors of a county; the mayor or city manager of a city; and the village president of a village.

(6) “District” means an airport district created pursuant to the local airport district act.

(7) “Enabling resolution” means the resolution adopted by the governing body of a municipality to create a district.

(8) “Governing body” the county board of a county; the common council or city council of a city; and the village board of trustees of a village.

(9) “Municipality” means any county, city or village.

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authority - created by state; on
passage, if "exists" -
also not defined by "territory" & not
quasi-municipal

(10) "Transfer agreement" means the contract between a district and a municipality which provides the terms and conditions upon which substantial airport facilities and the operation thereof are transferred by the municipality to the district.

XXX.03 Creation and organization.

* (1) A municipality may create a district by the adoption of an enabling resolution declaring the need for and establishing a district under the local airport district act and identifying the district's initial jurisdiction. A district may be jointly created by more than one municipality if each is identified in the enabling resolution and the same enabling resolution is adopted by the governing body of each municipality. Upon the filing of the enabling resolution with the secretary of transportation and the appointment of the members of its board of directors, a district is a public body politic and corporate that is separate and distinct from, and independent of, the state and the political subdivisions having territory within the district's jurisdiction including the municipality that created the district.

(2) A district is created for each jurisdiction under s. XXX.04(2). Upon certification by the county clerk to the secretary of transportation of the referendum results approving the creation of the district and the appointment of the members of its board of directors, the district is a public body politic and corporate that is separate and distinct from, and independent of, the state and the political subdivisions having territory within the district's jurisdiction.

(3) Commencing on the effective date of the transfer of airport operations to the district as provided in s. XXX.09 or the transfer agreement, as between the district and the political subdivisions of the state in which the airport is located, the district has preemptive rights to exercise the powers granted to it under the local airport district act.

(4) The business and affairs of a district are governed by its board of directors. The board of directors consists of seven members appointed as provided in sub. (5) or sub. (6) as applicable. The board of directors may adopt by-laws to govern its activities, provided that the by-laws shall not be inconsistent with the local airport district act.

(5) In the case of a district whose jurisdiction at the time of creation includes an airport classified by the federal aviation administration as a transport airport providing scheduled air transportation services and which had in excess of two million scheduled passenger enplanements during the twelve month period immediately prior to the creation of the district, the members of the board of directors shall be appointed as follows:

(a) four members shall be appointed by the governor, three of whom shall be resident in the territory of the regional planning commission created under s. 66.0309 whose territory includes such airport, and one of whom shall not be resident in that territory; and

(b) three members shall be appointed by the chief municipal official of the county in which such airport is located, subject to confirmation by the county board.

No member of the board of directors may hold elected public office or be an employee of any governmental body. The terms of office shall be four years each; provided that, so as to provide for staggering of terms, the four initial appointments by the governor shall include one two-year term, one three-year term, one four-year term and one five-year term, and the three initial appointments by the chief municipal official shall include one two-year term, one three-year term and one four-year term; and provided further that although a person may serve any number of terms, no person may serve more than two consecutive terms. A person appointed to fill a vacancy shall be appointed to the unexpired term of the vacant office which shall be deemed to be a term for purposes of determining consecutive terms of office.

(6) In all other cases, the members of the board of directors shall be appointed as follows:

(a) five members shall be appointed by the chief municipal official of the creating municipality, each of whom shall be a resident of the municipality; and

(b) two members shall be appointed by the chief municipal official of the creating municipality, neither of whom shall be a resident of a county in which the airport is located in whole or in part.

No member of the board of directors may hold elected public office or be an employee of any governmental body. Appointments by the chief municipal official shall be subject to confirmation by the governing body. The terms of office shall be four years each; provided that, so as to provide for staggering of terms, the initial appointments shall include two two-year terms, two three-year terms and three four-year terms; and provided further that although a person may serve any number of terms, no person may serve more than two consecutive terms. A person appointed to fill a vacancy shall be appointed to the unexpired term of the vacant office which shall be deemed to be a term for purposes of determining consecutive terms of office.

(7) If a district is jointly created by more than one municipality, then, for purposes of sub. (6), the appointments shall be allocated among the municipalities as provided in the enabling resolution.

(8) The board of directors shall elect one of their membership as chairman, another as vice chairman, another as secretary and another as treasurer to serve in such capacity for one-year terms or such other term as may be provided in the by-laws. Four members of the board of directors constitutes a quorum and the affirmative vote of a majority of a quorum is necessary for any action taken by the district. No vacancy in the membership of the board of directors impairs the rights of a quorum to exercise all of the rights and perform all of the duties of the district.

(9) Each member of the board of directors of a district is entitled to receive from the district reimbursement for reasonable expenses in the performance of the duties of office, but shall not otherwise receive compensation for service on the board of directors.

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(10) The term of a member of the board of directors expires or terminates upon the earliest occurrence of one of the following:

- (a) The term for which the member was appointed expires.
- (b) A member becomes an elected public official or an employee of a governmental body.
- (c) A member subject to a residency requirement establishes a nonqualifying residence.
- (d) The member is removed by the appointing official for malfeasance or nonfeasance in office.

(11) Upon the appointment and qualification of a majority of the members of the board of directors, the district may exercise the powers and duties of a district under the local airport district act.

(12) The board of directors shall name the district, and the name shall include "Airport District".

XXX.04 Jurisdiction.

(1) The initial jurisdiction of a district created under XXX.03(1) includes all or such portion of the territory of the municipality as shall be set forth in the enabling resolution; provided that no territory shall be within the jurisdiction of more than one district; and provided further that no municipality may create a district having jurisdiction over an airport owned or operated by another governmental unit without the consent of such other governmental unit.

(2) In the case of a county that on [insert the date of enactment of the local airport district act] owns or operates an airport classified by the federal aviation administration as a transport airport providing scheduled air transportation services and which had in excess of two million scheduled passenger enplanements during the preceding twelve-month period, the initial jurisdiction of the district created under XXX.03(2) is the territory of which the airports owned and operated by the county are composed on the date of [insert the date of enactment].

(3) The jurisdiction of a district changes from time to time so as to include all territory owned or leased by the district and to exclude territory neither owned nor leased by the district. The jurisdiction of a district need not include contiguous territories and may include territory in multiple municipalities.

(4) No municipality shall have zoning power in respect of territory within the jurisdiction of a district.

XXX.05 Powers of a district. Subject to s. XXX.06, a district has all powers necessary and convenient to carry out its duties and the purposes and provisions of the local airport district act, including all powers under general law possessed by the transferring

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municipality or municipalities with respect to the ownership and operation of airport facilities. In particular, but without limiting or being limited by the generality of the foregoing, a district may do the following:

(1) Adopt an official seal and adopt by-laws to govern the district's activities subject to the local airport district act.

(2) Sue and be sued in its own name, plead and be impleaded.

(3) Maintain an office.

(4) In connection with airport facilities:

(a) Acquire, own, hold, exchange, lease as lessor or lessee, construct, reconstruct, enlarge, improve, equip and develop property and interests in property.

(b) Operate, manage and maintain property and airport enterprises.

(c) Grant concessions.

(d) Enter into contracts subject to such standards as may be established by the board of directors. The district may award any such contract for any combination or division of work it designates and may consider any factors in awarding a contract, including price, time for completion of work, and qualifications and past performance of a contractor.

(e) Sell or otherwise dispose of unneeded or unwanted property.

(5) Employ personnel, and fix and regulate their compensation; and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits including an employee pension plan.

(6) Purchase insurance, establish and administer a plan of self-insurance or, subject to an agreement with another governmental entity under s. 66.0301 or s. 229.47, participate in a governmental plan of insurance or self-insurance.

(7) Borrow money and issue bonds as provided in s. XXX.10 and pledge revenues and grant liens to secure the same.

(8) Enter into transfer agreements, guarantee agreements, airline use agreements, and other contracts deemed necessary or advisable by the board of directors.

(9) Maintain funds and invest funds in any investment authorized by the board of directors.

(10) Enter into interest rate exchange agreements and grant mortgages and other liens to secure the same.

(11) Promote, advertise, and publicize the airport and the district's authorized purposes; provide information to persons with an interest in air transportation and other district activities; appear before rate-making and rule-making authorities to represent and promote the interests of the district and its authorized purposes.

(12) Adopt rules and regulations, not in conflict with general law, governing the use of its airport facilities, the conduct of its employees and the public, in and about its airport facilities in order to promote the public safety, security and convenience and to maintain order.

(13) Establish rates and charges for the use of airport facilities and the provision of services by the district including, without limitation, passenger facility charges under the Federal Aviation Act of 1958, as amended.

(14) Engage consultants, professionals and other service providers.

(15) Enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes.

(16) Enter into agency agreements with the secretary of transportation pursuant to ss. 114.32 or 114.33.

(17) Seek or accept "sole sponsor" or "dual sponsor" status from the federal aviation administration with respect to any airport within its jurisdiction and take such actions as may be necessary to perform all of the assurances associated with accepting grants from the federal aviation administration or other federal or state agencies.

(18) Take such actions as may be necessary to obtain and comply with the terms and conditions of a certificate from the federal aviation administration under part 139 of chapter 14 of the

code of federal regulations, as amended, and any successor provisions of the same or similar import.

- (19) Exercise powers of eminent domain under s. __.

XXX.06 Powers denied to a district. A district shall have no power or district to:

- (1) Levy taxes.

- (2) Exercise any zoning power outside the jurisdiction of the district.

XXX.07 Powers granted to municipalities. In addition to any powers it may otherwise have, a municipality may do the following:

- (1) Adopt and amend enabling resolutions.

- (2) Enter into and perform transfer agreements.

- (3) Make grants or loans to a district upon such terms as it deems appropriate.

- (4) Expend public funds to subsidize the operations or capital needs of a district.

- (5) Borrow money under ss. 67.04 and 67.12(12) for airport facilities or to fund grants, loans or subsidies to a district.

- (6) Lease or transfer property to a district on terms the municipality considers appropriate.

XXX.08 Dissolution of a district. Subject to making due provisions for payment and performance of the district's obligations, a district may be dissolved by its board of directors and in such event the properties of the district shall be transferred to a public body selected by the board of directors and willing and able to accept the transfer.

XXX.09 Transfer Agreements.

(1) A municipality may enter into a transfer agreement with a district created under XXX.03(1) to provide the terms and conditions upon which the municipality transfers airport facilities to the district. Any such transfer may take the form of a sale, lease or other conveyance and may be with or without financial consideration. A transfer agreement shall require the district to accept an assignment of any collective bargaining agreement in force with respect to persons employed by the municipality at transferred airport facilities at the time of transfer. A transfer agreement shall require the district to accept an assignment of all contracts with public or private parties in respect of transferred airport facilities that are in force at the time of transfer.

(2) In the case of a district created under XXX.03(2), the county shall as soon as practicable and, unless the district shall otherwise agree, in any event within six months following [insert date of enactment], transfer and assign to the district all of the county's right, title and interest in and to the airports owned or operated by the county on [insert date of enactment]. The transfer shall include all of the county's interests in assets, properties, licenses, contracts and revenues related to the airports. On the date of transfer, the district shall accept the assignment of contracts and shall assume obligations and liabilities of the county related to the airports and the assets, properties, licenses, contracts and revenues so transferred, and the district shall indemnify and hold the county harmless against and from all such obligations and liabilities. The county shall cooperate with the district in obtaining any third-party consents or approvals necessary to accomplish the transfer and provide for safe and uninterrupted service at the airports. The appropriate officials of the county shall execute those deeds, bills of sale and other instruments of conveyance, assignment and transfer as may be necessary to accomplish the transfer. Without limiting the generality of the foregoing, the district shall accept an assignment of any collective bargaining agreement in force with respect to persons employed by the bounty at transferred airport facilities at the time of transfer. The transfer transaction shall be without financial consideration other than the assumption of liabilities and obligations. The county and the district may, but are not required to, enter into a transfer agreement to provide more specific or different terms and conditions for the foregoing required transactions, and any such transfer agreement may provide exceptions to what otherwise would be required transfers of assets or assumptions of liabilities.

(3) A municipality may transfer airport facilities and related assets, properties, licenses, contracts and revenues to a district created by another municipality or to a district created under s. XXX.03(2) upon terms and conditions set forth in a transfer agreement between the municipality and the district.

XXX.10 Issuance of Bonds.

(1) A district may from time to time issue bonds for any corporate purpose related to airport facilities, the operation of the airport or the impact of the airport on surrounding areas and properties. The district may issue bonds to fund, refund, advance refund or purchase any outstanding bond of the district. All bonds of the district issued under the local airport district act are declared to be negotiable for all purposes, notwithstanding that their payment may be from a limited source, and without regard to any other law.

(2) The bonds shall be payable solely out of such revenues of the district as are specified in the resolution under which they are issued or in a related trust indenture.

(3) The bonds shall be authorized by a bond resolution of the district and shall bear such dates, mature at such times not exceeding 40 years from their respective dates of issue, bear interest at such fixed or variable rates, be payable at such times, be in such denominations, be in certificated or book entry or such other form, either coupon or fully registered, carry such registration and conversion privileges, be executed in such manner, be payable in lawful money of the United States at such places, and be subject to such terms of redemption as the bond resolution or the related trust indenture provides. The bonds shall be executed by the manual or facsimile signatures of such officers of the district as the district designates. The bonds may be

sold at public or private sale for such price and in such manner and from time to time as the district determines. Pending preparation of the definitive bonds, the district may issue interim receipts or certificates which shall be exchanged for the definitive bonds.

(4) Any bond resolution or a related trust indenture may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(a) Pledging or assigning the revenues of the project with respect to which the bonds are to be issued or other specified revenues or properties of the district.

(b) The rentals, fees and other amounts to be charged, and the sums to be raised in each year thereby, and the use, investment and disposition of such sums.

(c) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds.

(d) Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied.

(e) The setting aside of reserves or sinking funds, and the regulation, investment and disposition thereof.

(f) The funding, refunding, advance refunding or purchase of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(h) Defining the acts or omissions to act which shall constitute a default in the duties of the district to holders of its obligations, and providing the rights and remedies of such holders in the event of a default.

(i) Any other matters relating to the bonds which the district deems desirable.

(5) Neither the members of the board of directors of the district nor any person executing the bonds are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(6) The district may secure any bonds by a trust agreement, trust indenture, indenture of mortgage or deed of trust by and between the district and one or more trust companies or banks having trust powers. The bond resolution providing for the issuance of bonds or a related trust indenture may mortgage, pledge, assign and grant security interests in some or all of the revenues and property of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including particularly such provisions as are specifically authorized by the local airport district act to be included in any bond resolution of the district, and may restrict the individual right of action by bondholders. In addition, any bond resolution or a related trust indenture may contain such other provisions as the district deems reasonable and proper for the security of the bondholders.

(7) The district may purchase bond insurance, letters of credit or other forms of credit enhancement to secure the bonds and may enter into reimbursement agreements with the providers thereof and may secure the same with mortgages, liens and pledges of the district's properties and revenues.

(8) Neither the state nor any political subdivision of the state is liable on bonds of the district. All bonds of the district shall contain a statement to that effect. The issuance of bonds under the local airport district act shall not, directly or indirectly or contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

XXX.11 Budgets; rates and charges; audit. A district shall adopt a fiscal year for accounting purposes. The board of directors shall annually prepare a fiscal year budget for the district. Rates and charges received by the district shall be used for the general expenses and capital expenditures of the district and to pay principal, premium, if any, and interest on money borrowed or guaranteed. The district shall maintain an accounting system in accordance with good and sound accounting practice and shall have its financial statements audited annually by an independent accounting firm.

XXX.12 Open meetings, etc. The district shall be subject to ss. 19.81 through 19.98 (regarding open meetings); ss. 19.31 through 19.39 (regarding open records); and ss. 19.41 through 19.59 (regarding code of ethics).

XXX.13 Tax exemption. The exercise of the powers granted by the local airport district act will be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare and prosperity, and because the operation and maintenance of airport facilities will constitute the performance of an essential public function, the district is not required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of airport facilities acquired or used by the district under the local airport district act and the district's income therefrom shall at all times be free from taxation of every kind by the state and by political subdivisions of the state.

XXX.14 State pledge. The state pledges to and agrees with the bondholders, and persons that enter into contracts with a district under the local airport district act, that the state will not limit or alter the rights and powers vested in a district before the district

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has fully met and discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with the district.

1/18 Hc from Marsha Dake - VM

Gary, Aaron

- Dana Lach from Foley & Lardner will call me

From: Dake, Marsha
Sent: Friday, January 07, 2005 11:07 AM
To: Gary, Aaron
Subject: RE: Airport authority

directly & provide more info. & details - she has Rep. Stone's authority to discuss with me directly

Hi Aaron,

Thank you for these messages. I have forwarded them to Rep. Stone and am waiting for his response, which I will share with you as soon as possible.

Marsha

-----Original Message-----

From: Gary, Aaron
Sent: Friday, January 07, 2005 10:18 AM
To: Dake, Marsha
Cc: Shovers, Marc
Subject: RE: Airport authority

Hi Marsha,

I need to make one correction to yesterday's e-mail. I've learned that, contrary to what I said, special purpose districts can in fact issue bonds, but they must levy taxes in connection therewith for purposes of bond repayment (in contrast to the request, which allowed the entity to issue bonds but not levy taxes). Sorry for the error. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Gary, Aaron
Sent: Thursday, January 06, 2005 4:55 PM
To: Dake, Marsha
Cc: Shovers, Marc
Subject: Airport authority

Hi Marsha,

I have looked over the drafting request marked "airport authority." At this time, I believe that I will be the drafter, although that may change. The draft has been entered as LRB-1209. When I looked at the suggested language of the draft, it was unclear to me what is wanted. The first few pages suggest that the intent of the draft is to allow/require the creation of "special purpose districts" that would be local airport districts. This interpretation is based upon: the terminology used ("local airport district"); the fact that they are created by municipalities and creation is in part permissive; and that the "jurisdiction" of the district is indicated in terms of territory. It is my understanding that special purpose districts raise revenue by levying taxes and cannot bond. Yet, the latter pages of the suggested language provided, as well as the cover sheet, suggest that the intent of the draft is to create an "authority." This interpretation is based upon: the cover sheet says "airport authority" and the draft provides for bonding and has some other language that looks like "authority" language (an authority can issue bonds but cannot levy taxes). The territorial focus of the suggested language is more indicative of a district than an authority (which tends to be a body created to carry out a specific function regardless of geography - types of authorities include the UW Hospitals and Clinics and WHEDA). Also, if the statutes create an authority, the authority exists from the enactment of the legislation (as opposed to the suggested language provided that a municipality may choose to create or not create a local airport district). Creating an authority and creating a special purpose district are mutually exclusive - the draft cannot do both. Is your intent here to create a "special purpose district" or an "authority"? If you want to discuss this further, please call. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau

608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

1/20/05

He San Dana Lach - VAA
Toly + Carden
1/20/05

414-297-5767

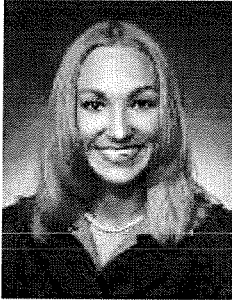
- 1/21/05
- They want a "special purpose district" \rightarrow not an authority
 - Milwaukee Brewers case —
 - repayment from revenues generated from
 - She says there is a "Carve out" in the constitution & a recent Milwaukee Brewers case that says that revenue bonds for special purpose districts can be repaid from revenues generated by the airport & its utility and that the district does not have to tax for repayment of the revenue bonds
 - has a revised version of the drafting instructions
 - will send it through Marsha or ~~her~~, with authorization, directly to us and note Marsha's authorization



FOLEY & LARDNER

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OUR PEOPLE



DANA M. LACH
Associate

Dana M. Lach, an associate in Foley & Lardner's Milwaukee office, is a member of the firm's Business Law Department and its Finance Practice Group. Ms. Lach has experience in student loan, health care and senior living and museum and cultural facility finance. In such transactions, she has served as bond counsel, disclosure counsel and counsel to underwriters, issuers and borrowers. In addition, Ms. Lach counsels clients in arbitrage and other tax issues relating to municipal finance.

Ms. Lach received her law degree, *cum laude*, from the University of Wisconsin School of Law. She received her Bachelor's degree in economics from the University of Chicago in 1994.

Ms. Lach is a member of the National Association of Bond Lawyers and the American Bar Association and is admitted to practice in Wisconsin.

Milwaukee

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2005 DRAFTING REQUEST

Bill

Received: 12/10/2004

Wanted: As time permits

For: Jeff Stone (608) 266-8590

This file may be shown to any legislator: NO

May Contact:

Subject: Transportation - airports

Submit via email: YES

Requester's email: Rep.Stone@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Creating airport authority

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/?	agary						
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FE Sent For:

<END>

copy
Received By: agary

Identical to LRB:

By/Representing: Marsha Dake (aide)

Drafter: agary

Addl. Drafters: mshovers

Extra Copies: PJH

Bill Request Form

copy

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 12/10/04

Legislator, agency, or other person requesting this draft Rep. Jeff Stone

Person submitting request (name and phone number) Marsha Dake 6-8590

Persons to contact for questions about this draft (names and phone numbers) Marsha

Describe the problem, including any helpful examples. How do you want to solve the problem?

Airport Authority

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES ☒ NO

If yes:

Anyone who asks? YES NO

Any legislator? YES NO

Only the following persons _____

Do you consider this request urgent? YES ☒ NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?

YES ☒ NO

CHAPTER XXX LOCAL AIRPORT DISTRICTS

The following paragraph is to be included in the noncodified portion of the legislation:

The legislature finds and determines that an airport described in XXX.04(2) facilitates travel for a large number of people and businesses in the region surrounding the airport and throughout the entire state and has a substantial statewide economic impact that calls for ownership, operation and governance under a structure that takes into account regional and statewide interests.

XXX.01 Short title. This chapter XXX is known as the local airport district act.

XXX.02 Definitions. In this chapter:

(1) “Airport” means any area of land or water which is used or intended to be used for the landing or take-off of aircraft and any appurtenant areas which are used or intended to be used for rights-of-way or facilities necessary or desirable in connection with customary airport operations, and all airport facilities located thereon.

(2) “Airport facilities” means all real and personal property related to facilities used, available for use, or designed for use for the navigation, landing or take-off of aircraft, for the safety, security, storage, maintenance, servicing and repair of aircraft, for the security, comfort and convenience of airport personnel and the users of air transportation including natural persons and businesses, for mail, military and national guard uses of an airport, and for the safe and efficient operation and maintenance of an airport.

(3) “Board of directors” means the board of directors of a district.

(4) “Bonds” means bond, notes or other obligations issued pursuant to s. XXX.10.

(5) “Chief municipal official” means the county executive of a county or, if there be none, the chairman of the county board of supervisors of a county; the mayor or city manager of a city; and the village president of a village.

(6) “District” means an airport district created pursuant to the local airport district act.

(7) “Enabling resolution” means the resolution adopted by the governing body of a municipality to create a district.

(8) “Governing body” the county board of a county; the common council or city council of a city; and the village board of trustees of a village.

(9) “Municipality” means any county, city or village.

(10) "Transfer agreement" means the contract between a district and a municipality which provides the terms and conditions upon which substantial airport facilities and the operation thereof are transferred by the municipality to the district.

XXX.03 Creation and organization.

(1) A municipality may create a district by the adoption of an enabling resolution declaring the need for and establishing a district under the local airport district act and identifying the district's initial jurisdiction. A district may be jointly created by more than one municipality if each is identified in the enabling resolution and the same enabling resolution is adopted by the governing body of each municipality. Upon the filing of the enabling resolution with the secretary of transportation and the appointment of the members of its board of directors, a district is a public body politic and corporate that is separate and distinct from, and independent of, the state and the political subdivisions having territory within the district's jurisdiction including the municipality that created the district.

(2) A district is created for each jurisdiction under s. XXX.04(2). Upon certification by the county clerk to the secretary of transportation of the referendum results approving the creation of the district and the appointment of the members of its board of directors, the district is a public body politic and corporate that is separate and distinct from, and independent of, the state and the political subdivisions having territory within the district's jurisdiction.

(3) Commencing on the effective date of the transfer of airport operations to the district as provided in s. XXX.09 or the transfer agreement, as between the district and the political subdivisions of the state in which the airport is located, the district has preemptive rights to exercise the powers granted to it under the local airport district act.

(4) The business and affairs of a district are governed by its board of directors. The board of directors consists of seven members appointed as provided in sub. (5) or sub. (6) as applicable. The board of directors may adopt by-laws to govern its activities, provided that the by-laws shall not be inconsistent with the local airport district act.

(5) In the case of a district whose jurisdiction at the time of creation includes an airport classified by the federal aviation administration as a transport airport providing scheduled air transportation services and which had in excess of two million scheduled passenger enplanements during the twelve month period immediately prior to the creation of the district, the members of the board of directors shall be appointed as follows:

(a) four members shall be appointed by the governor, three of whom shall be resident in the territory of the regional planning commission created under s. 66.0309 whose territory includes such airport, and one of whom shall not be resident in that territory; and

(b) three members shall be appointed by the chief municipal official of the county in which such airport is located, subject to confirmation by the county board.

No member of the board of directors may hold elected public office or be an employee of any governmental body. The terms of office shall be four years each; provided that, so as to provide for staggering of terms, the four initial appointments by the governor shall include one two-year term, one three-year term, one four-year term and one five-year term, and the three initial appointments by the chief municipal official shall include one two-year term, one three-year term and one four-year term; and provided further that although a person may serve any number of terms, no person may serve more than two consecutive terms. A person appointed to fill a vacancy shall be appointed to the unexpired term of the vacant office which shall be deemed to be a term for purposes of determining consecutive terms of office.

(6) In all other cases, the members of the board of directors shall be appointed as follows:

(a) five members shall be appointed by the chief municipal official of the creating municipality, each of whom shall be a resident of the municipality; and

(b) two members shall be appointed by the chief municipal official of the creating municipality, neither of whom shall be a resident of a county in which the airport is located in whole or in part.

No member of the board of directors may hold elected public office or be an employee of any governmental body. Appointments by the chief municipal official shall be subject to confirmation by the governing body. The terms of office shall be four years each; provided that, so as to provide for staggering of terms, the initial appointments shall include two two-year terms, two three-year terms and three four-year terms; and provided further that although a person may serve any number of terms, no person may serve more than two consecutive terms. A person appointed to fill a vacancy shall be appointed to the unexpired term of the vacant office which shall be deemed to be a term for purposes of determining consecutive terms of office.

(7) If a district is jointly created by more than one municipality, then, for purposes of sub. (6), the appointments shall be allocated among the municipalities as provided in the enabling resolution.

(8) The board of directors shall elect one of their membership as chairman, another as vice chairman, another as secretary and another as treasurer to serve in such capacity for one-year terms or such other term as may be provided in the by-laws. Four members of the board of directors constitutes a quorum and the affirmative vote of a majority of a quorum is necessary for any action taken by the district. No vacancy in the membership of the board of directors impairs the rights of a quorum to exercise all of the rights and perform all of the duties of the district.

(9) Each member of the board of directors of a district is entitled to receive from the district reimbursement for reasonable expenses in the performance of the duties of office, but shall not otherwise receive compensation for service on the board of directors.

03/08/02

(10) The term of a member of the board of directors expires or terminates upon the earliest occurrence of one of the following:

- (a) The term for which the member was appointed expires.
- (b) A member becomes an elected public official or an employee of a governmental body.
- (c) A member subject to a residency requirement establishes a nonqualifying residence.
- (d) The member is removed by the appointing official for malfeasance or nonfeasance in office.

(11) Upon the appointment and qualification of a majority of the members of the board of directors, the district may exercise the powers and duties of a district under the local airport district act.

(12) The board of directors shall name the district, and the name shall include "Airport District".

XXX.04 Jurisdiction.

(1) The initial jurisdiction of a district created under XXX.03(1) includes all or such portion of the territory of the municipality as shall be set forth in the enabling resolution; provided that no territory shall be within the jurisdiction of more than one district; and provided further that no municipality may create a district having jurisdiction over an airport owned or operated by another governmental unit without the consent of such other governmental unit.

(2) In the case of a county that on [insert the date of enactment of the local airport district act] owns or operates an airport classified by the federal aviation administration as a transport airport providing scheduled air transportation services and which had in excess of two million scheduled passenger enplanements during the preceding twelve-month period, the initial jurisdiction of the district created under XXX.03(2) is the territory of which the airports owned and operated by the county are composed on the date of [insert the date of enactment].

(3) The jurisdiction of a district changes from time to time so as to include all territory owned or leased by the district and to exclude territory neither owned nor leased by the district. The jurisdiction of a district need not include contiguous territories and may include territory in multiple municipalities.

(4) No municipality shall have zoning power in respect of territory within the jurisdiction of a district.

XXX.05 Powers of a district. Subject to s. XXX.06, a district has all powers necessary and convenient to carry out its duties and the purposes and provisions of the local airport district act, including all powers under general law possessed by the transferring

municipality or municipalities with respect to the ownership and operation of airport facilities. In particular, but without limiting or being limited by the generality of the foregoing, a district may do the following:

(1) Adopt an official seal and adopt by-laws to govern the district's activities subject to the local airport district act.

(2) Sue and be sued in its own name, plead and be impleaded.

(3) Maintain an office.

(4) In connection with airport facilities:

(a) Acquire, own, hold, exchange, lease as lessor or lessee, construct, reconstruct, enlarge, improve, equip and develop property and interests in property.

(b) Operate, manage and maintain property and airport enterprises.

(c) Grant concessions.

(d) Enter into contracts subject to such standards as may be established by the board of directors. The district may award any such contract for any combination or division of work it designates and may consider any factors in awarding a contract, including price, time for completion of work, and qualifications and past performance of a contractor.

(e) Sell or otherwise dispose of unneeded or unwanted property.

(5) Employ personnel, and fix and regulate their compensation; and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits including an employee pension plan.

(6) Purchase insurance, establish and administer a plan of self-insurance or, subject to an agreement with another governmental entity under s. 66.0301 or s. 229.47, participate in a governmental plan of insurance or self-insurance.

(7) Borrow money and issue bonds as provided in s. XXX.10 and pledge revenues and grant liens to secure the same.

(8) Enter into transfer agreements, guarantee agreements, airline use agreements, and other contracts deemed necessary or advisable by the board of directors.

(9) Maintain funds and invest funds in any investment authorized by the board of directors.

(10) Enter into interest rate exchange agreements and grant mortgages and other liens to secure the same.

(11) Promote, advertise, and publicize the airport and the district's authorized purposes; provide information to persons with an interest in air transportation and other district activities; appear before rate-making and rule-making authorities to represent and promote the interests of the district and its authorized purposes.

(12) Adopt rules and regulations, not in conflict with general law, governing the use of its airport facilities, the conduct of its employees and the public, in and about its airport facilities in order to promote the public safety, security and convenience and to maintain order.

(13) Establish rates and charges for the use of airport facilities and the provision of services by the district including, without limitation, passenger facility charges under the Federal Aviation Act of 1958, as amended.

(14) Engage consultants, professionals and other service providers.

(15) Enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes.

(16) Enter into agency agreements with the secretary of transportation pursuant to ss. 114.32 or 114.33.

(17) Seek or accept "sole sponsor" or "dual sponsor" status from the federal aviation administration with respect to any airport within its jurisdiction and take such actions as may be necessary to perform all of the assurances associated with accepting grants from the federal aviation administration or other federal or state agencies.

(18) Take such actions as may be necessary to obtain and comply with the terms and conditions of a certificate from the federal aviation administration under part 139 of chapter 14 of the

code of federal regulations, as amended, and any successor provisions of the same or similar import.

- (19) Exercise powers of eminent domain under s. __.

XXX.06 Powers denied to a district. A district shall have no power or district to:

- (1) Levy taxes.
- (2) Exercise any zoning power outside the jurisdiction of the district.

XXX.07 Powers granted to municipalities. In addition to any powers it may otherwise have, a municipality may do the following:

- (1) Adopt and amend enabling resolutions.
- (2) Enter into and perform transfer agreements.
- (3) Make grants or loans to a district upon such terms as it deems appropriate.
- (4) Expend public funds to subsidize the operations or capital needs of a district.
- (5) Borrow money under ss. 67.04 and 67.12(12) for airport facilities or to fund grants, loans or subsidies to a district.
- (6) Lease or transfer property to a district on terms the municipality considers appropriate.

XXX.08 Dissolution of a district. Subject to making due provisions for payment and performance of the district's obligations, a district may be dissolved by its board of directors and in such event the properties of the district shall be transferred to a public body selected by the board of directors and willing and able to accept the transfer.

XXX.09 Transfer Agreements.

(1) A municipality may enter into a transfer agreement with a district created under XXX.03(1) to provide the terms and conditions upon which the municipality transfers airport facilities to the district. Any such transfer may take the form of a sale, lease or other conveyance and may be with or without financial consideration. A transfer agreement shall require the district to accept an assignment of any collective bargaining agreement in force with respect to persons employed by the municipality at transferred airport facilities at the time of transfer. A transfer agreement shall require the district to accept an assignment of all contracts with public or private parties in respect of transferred airport facilities that are in force at the time of transfer.

(2) In the case of a district created under XXX.03(2), the county shall as soon as practicable and, unless the district shall otherwise agree, in any event within six months following [insert date of enactment], transfer and assign to the district all of the county's right, title and interest in and to the airports owned or operated by the county on [insert date of enactment]. The transfer shall include all of the county's interests in assets, properties, licenses, contracts and revenues related to the airports. On the date of transfer, the district shall accept the assignment of contracts and shall assume obligations and liabilities of the county related to the airports and the assets, properties, licenses, contracts and revenues so transferred, and the district shall indemnify and hold the county harmless against and from all such obligations and liabilities. The county shall cooperate with the district in obtaining any third-party consents or approvals necessary to accomplish the transfer and provide for safe and uninterrupted service at the airports. The appropriate officials of the county shall execute those deeds, bills of sale and other instruments of conveyance, assignment and transfer as may be necessary to accomplish the transfer. Without limiting the generality of the foregoing, the district shall accept an assignment of any collective bargaining agreement in force with respect to persons employed by the bounty at transferred airport facilities at the time of transfer. The transfer transaction shall be without financial consideration other than the assumption of liabilities and obligations. The county and the district may, but are not required to, enter into a transfer agreement to provide more specific or different terms and conditions for the foregoing required transactions, and any such transfer agreement may provide exceptions to what otherwise would be required transfers of assets or assumptions of liabilities.

(3) A municipality may transfer airport facilities and related assets, properties, licenses, contracts and revenues to a district created by another municipality or to a district created under s. XXX.03(2) upon terms and conditions set forth in a transfer agreement between the municipality and the district.

XXX.10 Issuance of Bonds.

(1) A district may from time to time issue bonds for any corporate purpose related to airport facilities, the operation of the airport or the impact of the airport on surrounding areas and properties. The district may issue bonds to fund, refund, advance refund or purchase any outstanding bond of the district. All bonds of the district issued under the local airport district act are declared to be negotiable for all purposes, notwithstanding that their payment may be from a limited source, and without regard to any other law.

(2) The bonds shall be payable solely out of such revenues of the district as are specified in the resolution under which they are issued or in a related trust indenture.

(3) The bonds shall be authorized by a bond resolution of the district and shall bear such dates, mature at such times not exceeding 40 years from their respective dates of issue, bear interest at such fixed or variable rates, be payable at such times, be in such denominations, be in certificated or book entry or such other form. either coupon or fully registered, carry such registration and conversion privileges, be executed in such manner, be payable in lawful money of the United States at such places, and be subject to such terms of redemption as the bond resolution or the related trust indenture provides. The bonds shall be executed by the manual or facsimile signatures of such officers of the district as the district designates. The bonds may be

sold at public or private sale for such price and in such manner and from time to time as the district determines. Pending preparation of the definitive bonds, the district may issue interim receipts or certificates which shall be exchanged for the definitive bonds.

(4) Any bond resolution or a related trust indenture may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(a) Pledging or assigning the revenues of the project with respect to which the bonds are to be issued or other specified revenues or properties of the district.

(b) The rentals, fees and other amounts to be charged, and the sums to be raised in each year thereby, and the use, investment and disposition of such sums.

(c) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds.

(d) Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied.

(e) The setting aside of reserves or sinking funds, and the regulation, investment and disposition thereof.

(f) The funding, refunding, advance refunding or purchase of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(h) Defining the acts or omissions to act which shall constitute a default in the duties of the district to holders of its obligations, and providing the rights and remedies of such holders in the event of a default.

(i) Any other matters relating to the bonds which the district deems desirable.

(5) Neither the members of the board of directors of the district nor any person executing the bonds are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(6) The district may secure any bonds by a trust agreement, trust indenture, indenture of mortgage or deed of trust by and between the district and one or more trust companies or banks having trust powers. The bond resolution providing for the issuance of bonds or a related trust indenture may mortgage, pledge, assign and grant security interests in some or all of the revenues and property of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including particularly such provisions as are specifically authorized by the local airport district act to be included in any bond resolution of the district, and may restrict the individual right of action by bondholders. In addition, any bond resolution or a related trust indenture may contain such other provisions as the district deems reasonable and proper for the security of the bondholders.

(7) The district may purchase bond insurance, letters of credit or other forms of credit enhancement to secure the bonds and may enter into reimbursement agreements with the providers thereof and may secure the same with mortgages, liens and pledges of the district's properties and revenues.

(8) Neither the state nor any political subdivision of the state is liable on bonds of the district. All bonds of the district shall contain a statement to that effect. The issuance of bonds under the local airport district act shall not, directly or indirectly or contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

XXX.11 Budgets; rates and charges; audit. A district shall adopt a fiscal year for accounting purposes. The board of directors shall annually prepare a fiscal year budget for the district. Rates and charges received by the district shall be used for the general expenses and capital expenditures of the district and to pay principal, premium, if any, and interest on money borrowed or guaranteed. The district shall maintain an accounting system in accordance with good and sound accounting practice and shall have its financial statements audited annually by an independent accounting firm.

XXX.12 Open meetings, etc. The district shall be subject to ss. 19.81 through 19.98 (regarding open meetings); ss. 19.31 through 19.39 (regarding open records); and ss. 19.41 through 19.59 (regarding code of ethics).

XXX.13 Tax exemption. The exercise of the powers granted by the local airport district act will be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare and prosperity, and because the operation and maintenance of airport facilities will constitute the performance of an essential public function, the district is not required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of airport facilities acquired or used by the district under the local airport district act and the district's income therefrom shall at all times be free from taxation of every kind by the state and by political subdivisions of the state.

XXX.14 State pledge. The state pledges to and agrees with the bondholders, and persons that enter into contracts with a district under the local airport district act, that the state will not limit or alter the rights and powers vested in a district before the district

03/08/02

has fully met and discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with the district.

Shovers, Marc

From: Gary, Aaron
Sent: Friday, January 07, 2005 10:18 AM
To: Dake, Marsha
Cc: Shovers, Marc
Subject: RE: Airport authority

Hi Marsha,

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Aaron R. Gary
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From: Gary, Aaron
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Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

Shovers, Marc

From: Lach, Dana M. [DLach@foley.com]
Sent: Thursday, January 27, 2005 4:16 PM
To: Shovers, Marc
Cc: Dake, Marsha; Weiss, Richard A.
Subject: Airport District Legislation

<<Chapter 8 Airport [999100/0415].DOC>>
Marc,

Attached is the latest draft of the proposed Airport District Legislation. Please let me know if you have any questions.

Regards,

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CHAPTER XXX LOCAL AIRPORT DISTRICTS

229.860
The following paragraph is to be included in the noncodified portion of the legislation:

don't need
The legislature finds and determines that an airport described in s. XXX.04(2) facilitates travel for a large number of people and businesses in the region surrounding an airport and throughout the entire state and has a substantial statewide economic impact that calls for ownership, operation and governance under a structure that takes into account regional and statewide interests.

XXX.01 Short title. This chapter XXX is known as the local airport district act.

229.861
XXX.02 Definitions. In this chapter:

(1) "Airport" means any area of land or water which is used or intended to be used for the landing or take-off of aircraft and any appurtenant areas which are used or intended to be used for rights-of-way or facilities necessary or desirable in connection with customary airport operations, and all airport facilities located thereon.

(2) "Airport facilities" means all real and personal property, or interest in all real or personal property, related to facilities used, available for use, or designed for use for the navigation, landing or take-off of aircraft, for the safety, security, storage, maintenance, servicing and repair of aircraft, for the security, comfort and convenience of airport personnel and the users of air transportation including natural persons and businesses, for mail, military and national guard uses of an airport, and for the safe and efficient operation and maintenance of an airport, and all appurtenant areas used for airport facilities, and all appurtenant rights-of-way.

(3) "Board of directors" means the board of directors of a district.

(4) "Bonds" means bond, notes or other obligations issued pursuant to s. XXX.10.

(5) "Chief municipal official" means the county executive of a county or, if there be none, the chairman of the county board of supervisors of a county; the mayor or city manager of a city; and the village president of a village.

(6) "District" means an airport district created pursuant to the local airport district act.

(7) "Enabling resolution" means the resolution adopted by the governing body of a municipality to create a district.

(8) "FAA" means the federal aviation administration of the United States department of transportation, or any successor agency.

Not needed

ask Aaron
(9) "FAA Approval date" means the effective date of the issuance by the FAA to the district assuming jurisdiction of an airport of a certificate under part 139 of chapter 14 of the code of federal regulations with respect to such airport, and the concurrence by the FAA of the designation of the district as a sponsor of such airport, including the FAA's approval of the assignment of existing grant agreements to the district.

Not needed
(10) "Governing body" the county board of a county; the common council or city council of a city; and the village board of trustees of a village.

(11) "Municipality" means any county, city or village.

(12) "PFC" means a passenger facility charge authorized under section 40117 of title 49 of the United States Code and designated as a passenger facility charge under part 158 of title 14 of the code of federal regulations.

(13) "Sponsor" means the public agency authorized by subchapter I of chapter 471 of title 49 of the United States Code to submit requests for financial assistance from the FAA.

(14) "Transfer agreement" means the contract between a district and a municipality which provides the terms and conditions upon which substantial airport facilities and the operation thereof are transferred by the municipality to the district.

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XXX.03 Creation and organization.

(1) (b)(1) A municipality may create a district by the adoption of an enabling resolution declaring the need for and establishing a district under the local airport district act and identifying the district's initial jurisdiction. A district may be jointly created by more than one municipality if each is identified in the enabling resolution and the same enabling resolution is adopted by the governing body of each municipality. Upon the filing of the enabling resolution with the secretary of transportation and the appointment of the members of its board of directors, a district is a public body politic and corporate that is separate and distinct from, and independent of, the state and the political subdivisions having territory within the district's jurisdiction including the municipality that created the district. Except as otherwise provided in this chapter, a district created under or pursuant to this section shall be considered a public agency for purposes of state and federal law.

inconsistent
(2) (a)(2) A district is created for each jurisdiction under s. XXX.04(2). Upon the appointment of the members of its board of directors, the district is a public body politic and corporate that is separate and distinct from, and independent of, the state and the political subdivisions having territory within the district's jurisdiction. Except as otherwise provided in this chapter, a district created under or pursuant to this section shall be considered a public agency for purposes of state and federal law.

(3) Commencing on the effective date of the transfer of airport operations to the district as provided in s. XXX.09 or the transfer agreement, as between the district and the political subdivisions of the state in which an airport is located and except as otherwise provided

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in this chapter, the district has preemptive rights to exercise the powers granted to it under the local airport district act.

(4) The business and affairs of a district are governed by its board of directors. The board of directors consists of seven members appointed as provided in sub. (5) or sub. (6) as applicable. The board of directors may adopt by-laws to govern its activities, provided that the by-laws shall not be inconsistent with the local airport district act.

(5) In the case of a district whose jurisdiction at the time of creation includes an airport classified by the FAA as a transport airport providing scheduled air transportation services and which had in excess of two million scheduled passenger enplanements during the twelve month period immediately prior to the creation of the district, the members of the board of directors shall be appointed as follows:

(a) four members shall be appointed by the governor, three of whom shall be resident in the territory of the regional planning commission created under s. 66.0309 whose territory includes such airport, and one of whom shall not be resident in that territory; and

(b) three members shall be appointed by the chief municipal official of the county in which such airport is located, subject to confirmation by the county board.

No member of the board of directors may hold elected public office or be an employee of any governmental body. The terms of office shall be four years each; provided that, so as to provide for staggering of terms, the four initial appointments by the governor shall include one two-year term, one three-year term, one four-year term and one five-year term, and the three initial appointments by the chief municipal official shall include one two-year term, one three-year term and one four-year term; and provided further that although a person may serve any number of terms, no person may serve more than two consecutive terms. A person appointed to fill a vacancy shall be appointed to the unexpired term of the vacant office which shall be deemed to be a term for purposes of determining consecutive terms of office.

(6) In all other cases, the members of the board of directors shall be appointed as follows:

(a) five members shall be appointed by the chief municipal official of the creating municipality, each of whom shall be a resident of the municipality; and

(b) two members shall be appointed by the chief municipal official of the creating municipality, neither of whom shall be a resident of a county in which an airport is located in whole or in part.

No member of the board of directors may hold elected public office or be an employee of any governmental body. Appointments by the chief municipal official shall be subject to

confirmation by the governing body. The terms of office shall be four years each; provided that, so as to provide for staggering of terms, the initial appointments shall include two two-year terms, two three-year terms and three four-year terms; and provided further that although a person may serve any number of terms, no person may serve more than two consecutive terms. A person appointed to fill a vacancy shall be appointed to the unexpired term of the vacant office which shall be deemed to be a term for purposes of determining consecutive terms of office.

(7) If a district is jointly created by more than one municipality, then, for purposes of sub. (6), the appointments shall be allocated among the municipalities as provided in the enabling resolution.

(8) The board of directors shall elect one of their membership as chairman, another as vice chairman, another as secretary and another as treasurer to serve in such capacity for one-year terms or such other term as may be provided in the by-laws. Four members of the board of directors constitutes a quorum and the affirmative vote of a majority of a quorum is necessary for any action taken by the district. No vacancy in the membership of the board of directors impairs the rights of a quorum to exercise all of the rights and perform all of the duties of the district.

(9) Each member of the board of directors of a district is entitled to receive from the district reimbursement for reasonable expenses in the performance of the duties of office, but shall not otherwise receive compensation for service on the board of directors.

(10) The term of a member of the board of directors expires or terminates upon the earliest occurrence of one of the following:

(a) The term for which the member was appointed expires.

(b) A member becomes an elected public official or an employee of a governmental body.

(c) A member subject to a residency requirement establishes a nonqualifying residence.

(d) The member is removed by the appointing official for malfeasance or nonfeasance in office.

(11) Upon the appointment and qualification of a majority of the members of the board of directors, the district may exercise the powers and duties of a district under the local airport district act.

(12) The board of directors shall name the district, and the name shall include "Airport District".

(13) Prior to the FAA approval date, a district may organize and exercise all powers granted under this chapter required for such organization including, but not limited to, the powers set forth under ss. XXX.05(1) through (3), ss. XXX.05(5) and (6), s. XXX.05(9) and

why specify any powers if "incl. but not ltd. to" ?

(11), s. XXX.05(17), ss. XXX.05(19) and (21). Officials and employees of the municipality and the district shall actively cooperate in order to obtain FAA recognition of the district as the sponsor of an airport, and to obtain FAA approval of the transfers contemplated by this chapter.

229.862
XXX.04 Jurisdiction.

(2) (1) The initial jurisdiction of a district created under s. XXX.03(1) includes all or such portion of the territory of the municipality as shall be set forth in the enabling resolution; provided that no territory shall be within the jurisdiction of more than one district; and provided further that no municipality may create a district having jurisdiction over an airport owned or operated by another governmental unit without the consent of such other governmental unit.

(1) (2) In the case of a county that on [insert date of enactment] owns or operates an airport classified by the FAA as a transport airport providing scheduled air transportation services and which had in excess of two million scheduled passenger enplanements during the preceding twelve-month period, the initial jurisdiction of the district created under s. XXX.03(2) is the territory of which the airports owned and operated by the county are composed on [insert date of enactment].

(3) The jurisdiction of a district changes from time to time so as to include all territory owned or leased by the district and to exclude territory neither owned nor leased by the district. The jurisdiction of a district need not include contiguous territories and may include territory in multiple municipalities.

(4) No municipality shall have zoning power in respect of territory within the jurisdiction of a district.

1862 XXX.05 Powers of a district. Subject to s. XXX.06, a district has all powers necessary and convenient to carry out its duties and the purposes and provisions of the local airport district act, including all powers under general law possessed by the municipality or municipalities which have transferred an airport to the district pursuant to s. XXX.09 with respect to the ownership and operation of airport facilities. In particular, but without limiting or being limited by the generality of the foregoing, a district may do the following:

(1) Adopt an official seal and adopt by-laws to govern the district's activities subject to the local airport district act.

(2) Sue and be sued in its own name, plead and be impleaded.

(3) Maintain an office.

(4) In connection with airport facilities:

(a) Take by grant, purchase, devise, lease, construct, reconstruct, enlarge, improve, equip, develop, or otherwise acquire and hold, property, interests and easements in

property. The district may acquire property by condemnation using the procedure under s. 32.

(b) Operate, manage and maintain property and airport enterprises.

(c) Grant concessions.

(d) Enter into contracts subject to such standards as may be established by the board of directors. Subject to the limitations set forth in this paragraph, the board of directors may consider any factors in awarding a contract, including price, time for completion of work and qualifications and past performance of a contractor. All contracts for the construction, repair, remodeling and improvement of any public work (excluding professional services contracts), the estimated costs of which exceed \$100,000, shall be let by contract to the lowest qualified and competent bidder under s. 66.0901. The district may reject any bid that is submitted under this paragraph.

(e) Sell or otherwise dispose of unneeded or unwanted property.

(5) Employ personnel, and fix and regulate their compensation; and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits including an employee pension plan.

(6) Purchase insurance, establish and administer a plan of self-insurance or, subject to an agreement with another governmental entity under s. 66.0301 or s. 229.47, participate in a governmental plan of insurance or self-insurance.

(7) Borrow money and issue bonds as provided in s. XXX.10 and pledge revenues and grant liens to secure the same.

(8) Enter into exclusive or nonexclusive contracts, leases, franchises, or other agreements with any person or persons for granting the privilege of using or improving, or having access to an airport or any airport facility, or any portions of an airport or the district's airport facilities, for commercial airline-related purposes consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

*Not
done -
see D-note*

Not done -
see A-note

(9) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with any department or agency of the United States, with any state or local governmental agency, or with any other person, public or private, upon those terms and conditions acceptable to the authority consistent with s. XXX.5(d) including, but not limited to, transfer agreements, guarantee agreements, and other contracts deemed necessary or advisable by the board of directors.

(10) Make and enter into all contracts and agreements, license, regulate and limit the number of all forms of ground transportation providing services within its jurisdiction including, but not limited to, buses, limousines and taxicabs.

(11) Maintain funds and invest funds in any investment authorized by the board of directors.

2 (12) Enter into interest rate exchange transactions and/or transactions to provide, currently or prospectively, a maximum or minimum interest rate on all or a portion of the indebtedness of the district and grant mortgages and other liens to secure the same.

(13) Promote, advertise, and publicize an airport and the district's authorized purposes; provide information to persons with an interest in air transportation and other district activities; appear before rate-making and rule-making authorities to represent and promote the interests of the district and its authorized purposes.

modified (14) Adopt and enforce in a court of competent jurisdiction of this state reasonable rules, regulations and ordinances, not in conflict with general law, governing the use of its airport facilities, the conduct of its employees and the public, in and about its airport facilities in order to promote the public safety, security and convenience and to maintain order. The district may establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this chapter to the same extent as the municipality or municipalities which have transferred an airport to the district pursuant to s. XXX.09.

based on P. 36-11(2)(d) (15) The district shall have concurrent police power, with other authorized peace officers, in its jurisdiction. Such concurrent police authority shall not be construed to reduce or lessen the authority of the police power of the municipality or municipalities in which an airport may be located. All district police officers shall cooperate with and be responsive to the local police authorities as they meet and exercise their statutory

responsibilities. All district police officers may arrest, with or without warrant, any person on such property who they have reasonable grounds to believe has violated a state law or any rule promulgated under this chapter and deliver such person to any court having jurisdiction over the violation and execute a complaint charging such person with the violation. This subsection does not impair the duty of any other peace officers within their jurisdictions to arrest and take before the proper court persons found violating any state law in such jurisdiction.

see
p. 36.11(2)(b)
The district may employ police for the institutions and chiefs to head such police, or contract for police with a municipality, all of whom shall be deemed peace officers under s. 939.22(22) under the supervision and control of the district. Such police officers shall meet the minimum standards established for other police officers by the law enforcement standards board or a comparable agency. Such police shall preserve the peace in the jurisdiction of the district and enforce all rules promulgated under this chapter and all other laws. The district may, subject to s. 66.0313, request of any other law enforcement agency assistance with the district's jurisdiction, notwithstanding any other jurisdictional provision. The district may employ security personnel, or contract for the provision of security personnel, to provide routine patrol functions. Such security personnel shall not be subject to the minimum standards established for police officers by the law enforcement standards board or a comparable agency.

(16) Establish rates and charges for the use of airport facilities and the provision of services by the district including, without limitation, PFCs under the Federal Aviation Act of 1958, as amended.

(17) Engage consultants, professionals and other service providers.

(18) Enter into partnerships, joint ventures, common ownership or other arrangements with other persons to further the district's purposes.

(19) Exercise all powers set forth in s. 114 including, but not limited to, the entry into agency agreements with the secretary of transportation pursuant to ss. 114.32 or 114.33.

(20) Act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the FAA or any other agency of the United States or of this state, with respect to an airport owned by the

district, and to perform the duties and responsibilities previously assumed by the municipality or municipalities which have transferred an airport to the district pursuant to s. XXX.09 by virtue of its acceptance of grants from the FAA or any other agency of the United States or this state.

(21) Take such actions as may be necessary to obtain and comply with the terms and conditions of a certificate from the FAA under part 139 of chapter 14 of the code of federal regulations, as amended, and any successor provisions of the same or similar import.

(22) Protect the aerial approaches to an airport facility by ordinance regulating, restricting and determining the use, location, height, number of stories and size of buildings and structures and objects of natural growth in the vicinity of an airport as set forth in s. 114.136. The provisions of such ordinance shall be effective whether an airport and the lands affected by such ordinance are located within the jurisdiction of the district, and whether or not such buildings, structures and objects of natural growth are in existence on the effective date of the ordinance. Such regulations, restrictions and determinations are declared to be for the purpose of promoting the public safety, welfare and convenience, and may be adopted, enforced and administered without the consent of any other governing body. The authority granted in this section shall be independent and exclusive of any other authority granted in the general statutes.

(23) Enter into an agreement with a municipality to establish an airport affected area and the requirements related to permitting land use in such airport affected area as set forth in s. 66.1009.

XXX.06 Powers denied to a district. A district shall have no power or district to:

(1) Impose or levy taxes, except a district has the power to impose fees or charges permitted by state or federal law.

(2) Exercise any zoning power outside the jurisdiction of the district, except as set forth in ss. XXX.05(22) and (23).

XXX.07 Powers granted to municipalities. In addition to any powers it may otherwise have, a municipality may do the following:

(1) Adopt and amend enabling resolutions.

(2) Enter into and perform transfer agreements.

(3) Make grants or loans to a district upon such terms as it deems appropriate.

(4) Expend public funds to subsidize the operations or capital needs of a district.

(5) Borrow money under ss. 67.04 and 67.12(12) for airport facilities or to fund grants, loans or subsidies to a district.

(6) Lease or transfer property to a district on terms the municipality considers appropriate.

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XXX.08 Dissolution of a district. Subject to making due provisions for payment and performance of the district's obligations, a district may be dissolved by its board of directors and in such event the properties of the district shall be transferred to a public body selected by the board of directors and willing and able to accept the transfer.

XXX.09 Transfer Agreements.

861(1)(b)
(1) A municipality may enter into a transfer agreement with a district created under s. XXX.03(1) to provide the terms and conditions upon which the municipality transfers airport facilities to the district. Any such transfer may take the form of a sale, lease or other conveyance and may be with or without financial consideration. A transfer agreement shall require the district to accept an assignment of any collective bargaining agreement in force with respect to persons employed by the municipality at transferred airport facilities at the time of transfer. A transfer agreement shall require the district to accept an assignment of all contracts with public or private parties in respect of transferred airport facilities that are in force at the time of transfer.

861(1)(a)
(2) In the case of a district created under s. XXX.03(2), the county shall as soon as practicable and, unless the district shall otherwise agree, in any event within six months following [insert date of enactment], transfer and assign to the district all of the county's right, title and interest in and to the airports owned or operated by the county on [insert date of enactment]. The transfer shall include all of the county's interests in assets, properties, licenses, contracts and revenues related to the airports. On the date of transfer, the district shall accept the assignment of contracts and shall assume obligations and liabilities of the county related to the airports and the assets, properties, licenses, contracts and revenues so transferred, and the district shall indemnify and hold the county harmless against and from all such obligations and liabilities. The county shall cooperate with the district in obtaining any third-party consents or approvals necessary to accomplish the transfer and provide for safe and uninterrupted service at the airports. The appropriate officials of the county shall execute those deeds, bills of sale and other instruments of conveyance, assignment and transfer as may be necessary to accomplish the transfer. Without limiting the generality of the foregoing, the district shall accept an assignment of any collective bargaining agreement in force with respect to persons employed by the county at transferred airport facilities at the time of transfer. The transfer transaction shall be without financial consideration other than the assumption of liabilities and obligations. The county and the district may, but are not required to, enter into a transfer agreement to provide more specific

or different terms and conditions for the foregoing required transactions, and any such transfer agreement may provide exceptions to what otherwise would be required transfers of assets or assumptions of liabilities.

(3) A municipality may transfer airport facilities and related assets, properties, licenses, contracts and revenues to a district created by another municipality or to a district created under s. XXX.03(2) upon terms and conditions set forth in a transfer agreement between the municipality and the district.

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XXX.10 Issuance of Bonds. RAC

(1) A district may from time to time issue bonds for any corporate purpose related to airport facilities, the operation of an airport or the impact of an airport on surrounding areas and properties. The district may issue bonds to fund, refund, advance refund or purchase any outstanding bond of the district. All bonds of the district issued under the local airport district act are declared to be negotiable for all purposes, notwithstanding that their payment may be from a limited source, and without regard to any other law.

(2) The bonds shall be payable solely out of such revenues of the district as are specified in the resolution under which they are issued or in a related trust indenture.

(3) The bonds shall be authorized by a bond resolution of the district and shall bear such dates, mature at such times not exceeding 40 years from their respective dates of issue, bear interest at such fixed or variable rates, be payable at such times, be in such denominations, be in certificated or book entry or such other form, either coupon or fully registered, carry such registration and conversion privileges, be executed in such manner, be payable in lawful money of the United States at such places, and be subject to such terms of redemption as the bond resolution or the related trust indenture provides. The bonds shall be executed by the manual or facsimile signatures of such officers of the district as the district designates. The bonds may be sold at public or private sale for such price and in such manner and from time to time as the district determines. Pending preparation of the definitive bonds, the district may issue interim receipts or certificates which shall be exchanged for the definitive bonds.

(4) Any bond resolution or a related trust indenture may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(a) Pledging or assigning the revenues of the project with respect to which the bonds are to be issued or other specified revenues or properties of the district.

(b) The rentals, fees and other amounts to be charged, and the sums to be raised in each year thereby, and the use, investment and disposition of such sums.

(c) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds.

(d) Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied.

(e) The setting aside of reserves or sinking funds, and the regulation, investment and disposition thereof.

(f) The funding, refunding, advance refunding or purchase of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(h) Defining the acts or omissions to act which shall constitute a default in the duties of the district to holders of its obligations, and providing the rights and remedies of such holders in the event of a default.

(i) Any other matters relating to the bonds which the district deems desirable.

(5) Neither the members of the board of directors of the district nor any person executing the bonds are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(6) The district may secure any bonds by a trust agreement, trust indenture, indenture of mortgage or deed of trust by and between the district and one or more trust companies or banks having trust powers. The bond resolution providing for the issuance of bonds or a related trust indenture may mortgage, pledge, assign and grant security interests in some or all of the revenues and property of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including particularly such provisions as are specifically authorized by the local airport district act to be included in any bond resolution of the district, and may restrict the individual right of action by bondholders. In addition, any bond resolution or a related trust indenture may contain such other provisions as the district deems reasonable and proper for the security of the bondholders.

(7) The district may purchase bond insurance, letters of credit or other forms of credit enhancement to secure the bonds and may enter into reimbursement agreements with the providers thereof and may secure the same with mortgages, liens and pledges of the district's properties and revenues.

(8) Neither the state nor any political subdivision of the state is liable on bonds of the district. All bonds of the district shall contain a statement to that effect. The issuance of bonds under the local airport district act shall not, directly or indirectly or

contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

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XXX.11 Budgets; rates and charges; audit. A district shall adopt a fiscal year for accounting purposes. The board of directors shall annually prepare a fiscal year budget for the district. Rates and charges received by the district shall be used for the general expenses and capital expenditures of the district and to pay principal, premium, if any, and interest on money borrowed or guaranteed. The district shall maintain an accounting system in accordance with good and sound accounting practice and shall have its financial statements audited annually by an independent accounting firm.

JTK Not needed?
XXX.12 Open meetings, etc. The district shall be subject to ss. 19.81 through 19.98 (regarding open meetings); ss. 19.31 through 19.39 (regarding open records); and ss. 19.41 through 19.59 (regarding code of ethics). *19.42(13)(a); 19.59(1)(a) + (g) l.a.*

JK
XXX.13 Tax exemption. The exercise of the powers granted by the local airport district act will be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare and prosperity, and because the operation and maintenance of airport facilities will constitute the performance of an essential public function, the district is not required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of airport facilities acquired or used by the district under the local airport district act and the district's income therefrom shall at all times be free from taxation of every kind by the state and by political subdivisions of the state.

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(FAC)
XXX.14 State pledge. The state pledges to and agrees with the bondholders, and persons that enter into contracts with a district under the local airport district act, that the state will not limit or alter the rights and powers vested in a district before the district has fully met and discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with the district.

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XXX.15 Immunity. The district shall have all of the statutory and common law immunities granted to any municipality including, but not limited to, those set forth in ss. 893 and 895.